

E2SHB 1144 - H AMD 879

By Representative McCoy

ADOPTED 01/30/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 82.16.110 and 2011 c 179 s 2 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Administrator" means an owner and assignee of a community
8 solar project as defined in subsection (2)(a)(i) of this section that
9 is responsible for applying for the investment cost recovery incentive
10 on behalf of the other owners and performing such administrative tasks
11 on behalf of the other owners as may be necessary, such as receiving
12 investment cost recovery incentive payments, and allocating and paying
13 appropriate amounts of such payments to the other owners.

14 (2)(a) "Community solar project" means:

15 (i) A solar energy system that is capable of generating up to
16 seventy-five kilowatts of electricity and is owned by local
17 individuals, households, nonprofit organizations, nonprofit housing
18 organization, or nonutility businesses that is placed on the property
19 owned by a cooperating local governmental entity (~~that~~), a nonprofit
20 organization, or a nonprofit housing organization if the cooperating
21 entity, nonprofit organization, or nonprofit housing organization is
22 not in the light and power business or in the gas distribution
23 business;

24 (ii) A utility-owned solar energy system that is capable of
25 generating up to seventy-five kilowatts of electricity and that is
26 voluntarily funded by the utility's ratepayers where, in exchange for
27 their financial support, the utility gives contributors a payment or
28 credit on their utility bill for the value of the electricity produced
29 by the project; or

1 (iii) A solar energy system, placed on the property owned by a
2 cooperating local governmental entity (~~that~~), a nonprofit
3 organization, or a nonprofit housing organization if the cooperating
4 entity, nonprofit organization, or nonprofit housing organization is
5 not in the light and power business or in the gas distribution
6 business, (~~that~~) and the solar energy system is capable of generating
7 up to seventy-five kilowatts of electricity(~~(7)~~) and (~~that~~) is owned
8 by a company whose members are each eligible for an investment cost
9 recovery incentive for the same customer-generated electricity as
10 provided in RCW 82.16.120.

11 (b) For the purposes of "community solar project" as defined in (a)
12 of this subsection:

13 (i) "Company" means an entity that is:
14 (A)(I) A limited liability company;
15 (II) A cooperative formed under chapter 23.86 RCW; or
16 (III) A mutual corporation or association formed under chapter
17 24.06 RCW; and

18 (B) Not a "utility" as defined in this subsection (2)(b); and

19 (ii) "Nonprofit organization" means an organization exempt from
20 taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
21 code of 1986, as amended, as of January 1, 2009; (~~and~~)

22 (iii) "Nonprofit housing organization" means an entity eligible for
23 assistance under RCW 43.185A.040 and engaged in activities eligible for
24 assistance under RCW 43.185A.030, including an entity materially
25 participating as a managing member of a limited liability company,
26 general partner of a partnership, or as an equivalent organization for
27 the purposes of accessing assistance from the Washington state housing
28 finance commission under chapter 43.180 RCW; and

29 (iv) "Utility" means a light and power business, an electric
30 cooperative, or a mutual corporation that provides electricity service.

31 (3) "Customer-generated electricity" means a community solar
32 project or the alternating current electricity that is generated from
33 a renewable energy system located in Washington and installed on an
34 individual's, businesses', or local government's real property that is
35 also provided electricity generated by a light and power business.
36 Except for community solar projects, a system located on a leasehold
37 interest does not qualify under this definition. Except for utility-
38 owned community solar projects, "customer-generated electricity" does

1 not include electricity generated by a light and power business with
2 greater than one thousand megawatt hours of annual sales or a gas
3 distribution business.

4 (4) "Economic development kilowatt-hour" means the actual kilowatt-
5 hour measurement of customer-generated electricity multiplied by the
6 appropriate economic development factor.

7 (5) "Local governmental entity" means any unit of local government
8 of this state including, but not limited to, counties, cities, towns,
9 municipal corporations, quasi-municipal corporations, special purpose
10 districts, and school districts.

11 (6) "Photovoltaic cell" means a device that converts light directly
12 into electricity without moving parts.

13 (7) "Renewable energy system" means a solar energy system, a
14 hydrokinetic energy system, an anaerobic digester as defined in RCW
15 82.08.900, or a wind generator used for producing electricity.

16 (8) "Solar energy system" means any device or combination of
17 devices or elements that rely upon direct sunlight as an energy source
18 for use in the generation of electricity.

19 (9) "Solar inverter" means the device used to convert direct
20 current to alternating current in a solar energy system.

21 (10) "Solar module" means the smallest nondivisible self-contained
22 physical structure housing interconnected photovoltaic cells and
23 providing a single direct current electrical output.

24 (11) "Stirling converter" means a device that produces electricity
25 by converting heat from a solar source utilizing a stirling engine.

26 (12) "Hydrokinetic energy system" means a device that generates
27 electricity from waves or directly from the flow of water in ocean
28 currents, tides, inland waterways, nonfish-bearing canals, or
29 irrigation districts, that does not require the impoundment or
30 diversion of water.

31 **Sec. 2.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to read
32 as follows:

33 (1)(a) Any individual, business, local governmental entity, not in
34 the light and power business or in the gas distribution business, or a
35 participant in a community solar project may apply to the light and
36 power business serving the situs of the system, each fiscal year

1 beginning on July 1, 2005, for an investment cost recovery incentive
2 for each kilowatt-hour from a customer-generated electricity renewable
3 energy system.

4 (b) In the case of a community solar project as defined in RCW
5 82.16.110(2)(a)(i), the administrator must apply for the investment
6 cost recovery incentive on behalf of each of the other owners.

7 (c) In the case of a community solar project as defined in RCW
8 82.16.110(2)(a)(iii), the company owning the community solar project
9 must apply for the investment cost recovery incentive on behalf of each
10 member of the company.

11 (2)(a) Before submitting for the first time the application for the
12 incentive allowed under subsection (4) of this section, the applicant
13 must submit to the department of revenue and to the climate and rural
14 energy development center at the Washington State University,
15 established under RCW 28B.30.642, a certification in a form and manner
16 prescribed by the department that includes, but is not limited to, the
17 following information:

18 (i) The name and address of the applicant and location of the
19 renewable energy system.

20 (A) If the applicant is an administrator of a community solar
21 project as defined in RCW 82.16.110(2)(a)(i), the certification must
22 also include the name and address of each of the owners of the
23 community solar project.

24 (B) If the applicant is a company that owns a community solar
25 project as defined in RCW 82.16.110(2)(a)(iii), the certification must
26 also include the name and address of each member of the company;

27 (ii) The applicant's tax registration number;

28 (iii) That the electricity produced by the applicant meets the
29 definition of "customer-generated electricity" and that the renewable
30 energy system produces electricity with:

31 (A) Any solar inverters and solar modules manufactured in
32 Washington state;

33 (B) A wind generator powered by blades manufactured in Washington
34 state;

35 (C) A solar inverter manufactured in Washington state;

36 (D) A solar module manufactured in Washington state;

37 (E) A stirling converter manufactured in Washington state; ((~~or~~))

1 (F) A hydrokinetic energy system manufactured in Washington state;
2 or

3 (G) Solar or wind equipment manufactured outside of Washington
4 state;

5 (iv) That the electricity can be transformed or transmitted for
6 entry into or operation in parallel with electricity transmission and
7 distribution systems; and

8 (v) The date that the renewable energy system received its final
9 electrical permit from the applicable local jurisdiction.

10 (b) The Washington State University may charge for services to
11 cover the cost of processing applications and related technical
12 assistance to effectively administer the cost recovery program. If the
13 Washington State University charges for these activities, an applicant
14 must submit a payment along with the initial application. Application
15 charges may not exceed fair and reasonable costs associated with the
16 necessary and effective oversight of the cost recovery program.

17 (c) Within thirty days of receipt of the certification the
18 department of revenue must notify the applicant by mail, or
19 electronically as provided in RCW 82.32.135, whether the renewable
20 energy system qualifies for an incentive under this section. The
21 department may consult with the climate and rural energy development
22 center to determine eligibility for the incentive. System
23 certifications and the information contained therein are subject to
24 disclosure under RCW 82.32.330(3)(1).

25 (3)(a) (~~By August 1st of each year application for the incentive~~
26 ~~must be made to~~) If required by the light and power business serving
27 the situs of the system, persons receiving incentive payments must
28 apply to the light and power by August 1st of each year by
29 certification in a form and manner prescribed by the department that
30 includes, but is not limited to, the following information:

31 (i) The name and address of the applicant and location of the
32 renewable energy system.

33 (A) If the applicant is an administrator of a community solar
34 project as defined in RCW 82.16.110(2)(a)(i), the application must also
35 include the name and address of each of the owners of the community
36 solar project.

37 (B) If the applicant is a company that owns a community solar

1 project as defined in RCW 82.16.110(2)(a)(iii), the application must
2 also include the name and address of each member of the company;

3 (ii) The applicant's tax registration number;

4 (iii) The date of the notification from the department of revenue
5 stating that the renewable energy system is eligible for the incentives
6 under this section; and

7 (iv) A statement of the amount of kilowatt-hours generated by the
8 renewable energy system in the prior fiscal year.

9 (b) Within sixty days of receipt of the incentive certification the
10 light and power business serving the situs of the system must notify
11 the applicant in writing whether the incentive payment will be
12 authorized or denied. The business may consult with the climate and
13 rural energy development center to determine eligibility for the
14 incentive payment. Incentive certifications and the information
15 contained therein are subject to disclosure under RCW 82.32.330(3)(1).

16 (c)(i) Persons, administrators of community solar projects, and
17 companies receiving incentive payments must keep and preserve, for a
18 period of five years, suitable records as may be necessary to determine
19 the amount of incentive applied for and received. Such records must be
20 open for examination at any time upon notice by the light and power
21 business that made the payment or by the department. If upon
22 examination of any records or from other information obtained by the
23 business or department it appears that an incentive has been paid in an
24 amount that exceeds the correct amount of incentive payable, the
25 business may assess against the person for the amount found to have
26 been paid in excess of the correct amount of incentive payable and must
27 add thereto interest on the amount. Interest is assessed in the manner
28 that the department assesses interest upon delinquent tax under RCW
29 82.32.050.

30 (ii) If it appears that the amount of incentive paid is less than
31 the correct amount of incentive payable the business may authorize
32 additional payment.

33 (4) Except for community solar projects, the investment cost
34 recovery incentive may be paid fifteen cents per economic development
35 kilowatt-hour unless requests exceed the amount authorized for credit
36 to the participating light and power business. For community solar
37 projects, the investment cost recovery incentive may be paid thirty
38 cents per economic development kilowatt-hour unless requests exceed the

1 amount authorized for credit to the participating light and power
2 business. For the purposes of this section, the rate paid for the
3 investment cost recovery incentive may be multiplied by the following
4 factors:

5 (a) For customer-generated electricity produced using solar modules
6 manufactured in Washington state, a hydrokinetic energy system
7 manufactured in Washington state, or a solar stirling converter
8 manufactured in Washington state, two and four-tenths;

9 (b) For customer-generated electricity produced using a solar or a
10 wind generator equipped with an inverter manufactured in Washington
11 state, one and two-tenths;

12 (c) For customer-generated electricity produced using an anaerobic
13 digester, or by other solar equipment or using a wind generator
14 equipped with blades manufactured in Washington state, one; and

15 (d) For all other customer-generated electricity produced by wind,
16 eight-tenths.

17 (5)(a) No individual, household, business, or local governmental
18 entity is eligible for incentives provided under subsection (4) of this
19 section for more than five thousand dollars per year.

20 (b) Except as provided in (c) through (e) of this subsection (5),
21 each applicant in a community solar project is eligible for up to five
22 thousand dollars per year.

23 (c) Where the applicant is an administrator of a community solar
24 project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible
25 for an incentive but only in proportion to the ownership share of the
26 project, up to five thousand dollars per year.

27 (d) Where the applicant is a company owning a community solar
28 project that has applied for an investment cost recovery incentive on
29 behalf of its members, each member of the company is eligible for an
30 incentive that would otherwise belong to the company but only in
31 proportion to each ownership share of the company, up to five thousand
32 dollars per year. The company itself is not eligible for incentives
33 under this section.

34 (e) In the case of a utility-owned community solar project, each
35 ratepayer that contributes to the project is eligible for an incentive
36 in proportion to the contribution, up to five thousand dollars per
37 year.

1 (6)(a) If requests for the investment cost recovery incentive
2 exceed the amount of funds available for credit to the participating
3 light and power business, (~~the incentive payments must be reduced~~
4 ~~proportionately~~) no new applications may be approved for the light and
5 power business, except as provided in (b) of this subsection.

6 (b) A new application may be approved for a light and power
7 business when requests for the investment cost recovery incentive
8 exceed the amount of funds available for credit to the participating
9 light and power business, if the light and power business meets the
10 requirements in RCW 82.16.130(1)(c) and the incentive payments are
11 reduced proportionately.

12 (7) The climate and rural energy development center at Washington
13 State University energy program may establish guidelines and standards
14 for technologies that are identified as Washington manufactured and
15 therefore most beneficial to the state's environment.

16 (8) The environmental attributes of the renewable energy system
17 belong to the applicant, and do not transfer to the state or the light
18 and power business upon receipt of the investment cost recovery
19 incentive.

20 (9) No incentive may be paid under this section for kilowatt-hours
21 generated before July 1, 2005, or after June 30, 2020.

22 (10) A local government entity that qualifies for the community
23 solar incentive program has an option to purchase a solar energy system
24 located on its property from the owner at fair market value after the
25 expiration of the cost recovery incentive program. The fair market
26 value must take into consideration the following:

27 (a) The energy production from the solar energy system over its
28 remaining useful life;

29 (b) The cost of the lease for the property that the solar energy
30 system is located; and

31 (c) Maintenance, insurance, and cost of removal of the solar energy
32 system if the host facility decides not to renew the lease.

33 **Sec. 3.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to read
34 as follows:

35 (1)(a) A light and power business (~~shall be~~) is allowed a credit
36 against taxes due under this chapter in an amount equal to investment
37 cost recovery incentive payments made in any fiscal year under RCW

1 82.16.120. The credit (~~shall~~) must be taken in a form and manner as
2 required by the department. The credit under this section for the
3 fiscal year may not exceed one-half percent of the businesses' taxable
4 power sales due under RCW 82.16.020(1)(b) or one hundred thousand
5 dollars, whichever is greater.

6 (b) Except as provided in (c) of this subsection:

7 (i) Incentive payments to participants in a utility-owned community
8 solar project as defined in RCW 82.16.110(2)(a)(ii) may only account
9 for up to (~~twenty-five~~) fifteen percent of the total allowable
10 credit(~~(-)~~); and

11 (ii) Incentive payments to participants in a company-owned
12 community solar project as defined in RCW 82.16.110(2)(a)(iii), except
13 for a limited liability company with a nonprofit housing organization
14 participating as a managing member for the purposes of accessing
15 assistance from the Washington state housing finance commission under
16 chapter 43.180 RCW, may only account for up to (~~five~~) fifteen percent
17 of the total allowable credit.

18 (c) For light and power businesses providing electrical service
19 solely within a county with a population between thirty-nine thousand
20 and forty-three thousand five hundred, incentive payments to
21 participants in a utility-owned community solar project as defined in
22 RCW 82.16.110(2)(a)(ii) and incentive payments to participants in a
23 company-owned community solar project as defined in RCW
24 82.16.110(2)(a)(iii), other than a company-owned community solar
25 project that has as its owner a limited liability company with a
26 nonprofit housing organization participating as a managing member for
27 the purposes of accessing assistance from the Washington state housing
28 finance commission under chapter 43.180 RCW, may only account for up to
29 thirty percent of the total allowable credit.

30 (2) The credit may not exceed the tax that would otherwise be due
31 under this chapter. Refunds (~~shall~~) may not be granted in the place
32 of credits. Expenditures not used to earn a credit in one fiscal year
33 may not be used to earn a credit in subsequent years.

34 (~~(+2)~~) (3) For any business that has claimed credit for amounts
35 that exceed the correct amount of the incentive payable under RCW
36 82.16.120, the amount of tax against which credit was claimed for the
37 excess payments (~~shall-be~~) is immediately due and payable. The
38 department (~~shall~~) must assess interest but not penalties on the

1 taxes against which the credit was claimed. Interest (~~shall be~~) is
2 assessed at the rate provided for delinquent excise taxes under chapter
3 82.32 RCW, retroactively to the date the credit was claimed, and
4 (~~shall~~) accrues until the taxes against which the credit was claimed
5 are repaid.

6 (~~(+3)~~) (4) The right to earn tax credits under this section
7 expires June 30, 2020. Credits may not be claimed after June 30,
8 2021."

9 Correct the title.

EFFECT: (1) Hydrokinetic Energy Systems. Allows individuals, businesses, or local government that generate electricity using a hydrokinetic energy system manufactured in Washington to receive an incentive payment for each kilowatt-hour produced. Establishes an incentive payment of fifteen cents per kilowatt-hour multiplied by a factor of 2.4. Defines "hydrokinetic energy system" as a device that generates electricity, that does not require the impoundment or diversion of water, from waves or directly from the flow of water in ocean currents, tides, inland waterways, nonfish-bearing canals, or irrigation districts.

(2) Stirling Converter. Removes provisions making the electricity from stirling converters eligible to receive an incentive payment. These provisions are now duplicative due to legislation enacted during 2011 legislative session.

(3) Solar Inverter System. Strikes provisions that make solar inverter systems eligible to receive an incentive payment for each kilowatt-hour produced.

(4) Annual Incentive Payment for Company-Owned Community Solar Projects. Returns the annual incentive payment limit for company-owned community solar projects to \$5,000 from \$25,000 per member.

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